

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 1, 2, 5, 8, 10 and 11 are pending in the application. Currently, all claims stand rejected.

By the present amendment, claim 1 has been amended.

In the office action mailed April 8, 2008, claims 1, 5, and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,787,675 to McLeod; claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod; claims 10 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod in view of U.S. Patent No. 928,929 to Betherum.

The foregoing rejections are traversed by the following comments.

As amended herein, claim 1 is directed to a chair having a folding seat that rotates about a fixed horizontal pivot axis between a substantially vertical rest position and a substantially horizontal use position, the chair being intended, in particular, to equip halls that receive the public, such as lecture theatres and/or show halls. The chair comprises at least an underframe having an essentially longitudinal axis and to which a backrest may be fixed. The underframe comprises at least a first stationary element for taking up vertical forces. The fixed horizontal pivot axis is fixed relative to the first stationary element and to the seat. The seat comprises a first part projecting forwards with respect to said fixed horizontal pivot axis, and a second part projecting towards said underframe. The underframe contains a gas strut having a first end pivotably fixed to said second part of said seat and a second end pivotably fixed relative to the underframe, and the

gas strut biases the folding seat toward the substantially vertical rest position.

The McLeod patent is directed to a very specific type of seat, i.e. an off-shore speed boat seat having a seat bottom and a seat back. The seat bottom is pivotally mounted between a substantially horizontal use position (see Figures 5 and 7 in McLeod) and a downwardly inclined rest position (see Figure 6 in McLeod). The inclined rest position allows the driver of the speed boat to stand between the wheel and the seat bottom as explained in column 5, lines 40 - 50 of McLeod.

This is quite different from the seat of the present invention which has a seat which rotates upwardly from a substantially horizontal use position to a substantially vertical rest position. Still another difference between the seat of the present invention and the seat shown in McLeod is that the seat of the present invention has a gas strut which biases the seat toward the substantially vertical rest position. While McLeod has a linear actuator, the actuator does not bias the seat toward a substantially vertical rest position. Nor would there be any reason to bias the seat of McLeod in such a manner.

For these reasons, claim 1 is not anticipated by McLeod and is allowable thereover.

The Examiner is thanked for conducting a telephone interview with the undersigned attorney on August 7, 2008 to discuss claim 1 as amended. It was agreed during the interview that amended claim 1 overcame the McLeod reference of record.

With respect to pending claims 2, 5, and 8, these claims are allowable over McLeod for the same reasons as claim 1 as well as on their own accord.

With respect to the rejection of claims 10 and 11 over the combination of McLeod and Betherum, the secondary reference to Betherum does not cure the deficiencies of McLeod discussed

hereinbefore. Consequently, claims 10 and 11 are allowable for the same reasons as claim 1 as well as on their own accord.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

The instant amendment should be entered and the instant application should be allowed. The Examiner has done a complete and thorough search on the subject matter of this application and it has been agreed that amended claim 1 is allowable over the art of record. Thus, there is no need to conduct a further search. The Examiner should be able to make a decision on patentability without any further search and/or consideration. Still further, the instant amendment does not raise any new issue of new matter. Allowance of the case at this point of time would provide an economic savings to Applicant.

A one month extension of time is hereby requested. The Director is hereby authorized to charge the one month extension of time fee of \$ 120.00 to Deposit Account No. 02-0184.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicant's attorney at the telephone number listed below.

Should the Director determine that an additional fee is due, he is hereby authorized to charge said fee to said Deposit Account No. 02-0184.

Respectfully submitted,

Bernard Vallee

By /Barry L. Kelmachter #29999/
Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Reg. No. 29,999
Attorney for Applicant
Telephone: (203)777-6628 ext. 112
Telefax: (203)865-0297
Email: docket@bachlap.com

Date: August 8, 2008